IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1872 of 2005
To
FIRST APPEAL No. 1910 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
HON'BLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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THE STATE OF GUJARAT & 2 - Appellant(s)

Versus

KARSHAN VIKRAMSHI - Defendant(s)

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Appearance :
MR AD OZA, GOVERNMENT PLEADER for Appellant No(s).: 1,2,3.
MR KL DAVE for Respondent No(s).: 1.
None for Respondent No(s).: 1 - 1.
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CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date : 03/08/2005

COMMON ORAL JUDGMENT (Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

All these appeals are admitted. Learned counsel Shri K.L. Dave appears and waives service for the

respondents – claimants in all these appeals. On the joint request of the learned counsel for the parties, all these appeals are disposed of today itself by this common order as they arise out of the impugned common judgment and award passed by the Civil Judge (S.D.), Veraval in Land Reference Case No.59 to 97 of 1999 whereby the learned Judge partly allowed all the references and held that the claimants are entitled to get the compensation at the rate of Rs.5,000/- per bigha i.e. Rs.313/- per Are for irrigated land and Rs.3,500/- per bigha i.e. Rs.219/- per Are for non-irrigated lands from the original opponents – present appellants with proportionate costs. The learned Judge further held that the claimants are also entitled to get compensation for Mango trees at Rs.8,000/- per tree and for other fruit bearing trees Rs.5,000/- per tree and for non-fruit bearing trees per tree Rs.1,000/-. The learned Judge also held that the claimants are entitled to get compensation of Rs.30,000/- for well, for cattle, verandah, water tank, bathroom Rs.1,000/-, for machine room, pipeline includes cement pipeline Rs.7,500/-, for stone wall and compound wall Rs.5,000/-, for temple, pooja room, Gaushala room, meditation room and house Rs.15,000/-. The original opponents – present appellants were also directed to pay

solatium at the rate of 15% on additional amount of compensation as provided under Section 23(2) of the Land Acquisition Act (for short, 'the Act'). The learned Judge also held that all the claimants are entitled to get 12% annual increase amount on additional amount from the date of notification issued under Section 4(1) of the Act. The learned Judge also held that the claimants are entitled for additional amount solatium 12% annual increase amount. On these amounts, the claimants are also entitled to get the interest at the rate of 9% per annum from the date of taking possession of the acquired lands till the realisation of the amount.

2. Both the learned counsel for the parties, Shri Oza for the appellants and Shri Dave for the respondents – claimants submitted that there are several flaws in the judgment of the learned Judge. Therefore, they have agreed that without assigning any reasons and without expressing any opinion, all the matters be remitted back to the Reference Court for its just and correct decision in accordance with law at the earliest by setting aside the impugned common judgment and award passed by the Reference Court.

3. In view of the above, without expressing any opinion on the merits of the case, all these appeals are allowed and the impugned common judgment and award dated 15th March, 2000 passed by the learned Civil Judge (S.D.), Veraval is hereby quashed and set side and all the reference cases are remanded to the Reference Court for its fresh adjudication. On transfer, both the parties will be entitled to lead further oral as well as documentary evidence in support of their claims. The Reference Court shall decide all the reference cases as early as possible and not later than 30th November, 2005. It is hoped and trust that the Reference Court shall consider all the relevant judgments of the Hon'ble Apex Court and this court and any other court cited before it by the learned counsel for the parties in support of their case and decide the matters strictly in accordance with law. Accordingly, all these appeals are allowed with no order as to costs. Writ to be sent down forthwith to the Reference Court. R & P to be sent down to the Trial Court forthwith.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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